



News Release

National Labor Relations Board

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NLRB invites briefs in case involving nonemployee union access at Milwaukee area retail locations

The National Labor Relations Board invites interested parties to file briefs in a case involving nonemployee access to Pick'n Save retail locations operated by Roundy's Inc., in the Milwaukee area.

The Milwaukee Building and Construction Trades Council distributed handbills in the common areas (sidewalks and parking lots) in front of 26 Roundy's stores asking consumers not to patronize the shops, alleging that Roundy's employed nonunion contractors that did not pay prevailing wages and benefits to build and renovate its stores. The picketing was peaceful and did not interfere with access to or egress from the stores. Roundy's contacted the police in an effort to have the handbillers expelled.

The Board reached a decision ([356 NLRB 027](#)) on November 12, 2010 adopting an administrative law judge's supplemental finding that, at 23 of its store locations, Roundy's possessed only a nonexclusive easement in the areas from which it attempted to expel the handbillers. Accordingly, the Board found that Roundy's unlawfully prohibited handbilling in front of those stores.

The Board severed allegations involving handbilling at two other store locations (West Bluemound Road in Milwaukee, WI and West Capitol Drive in Brookfield, WI) where the General Counsel conceded that Roundy's possessed a sufficient property interest in the areas from which it attempted to expel handbillers. The Board retained these allegations for further consideration in order to determine whether Roundy's prohibition of handbilling by nonemployee union agents at these locations while permitting nonunion solicitations and distribution to occur on the same property was unlawful.

The Board is inviting all interested parties to file briefs regarding the question of what legal standard the Board should apply in determining whether an employer has violated the NLRA by denying nonemployee union agents access to its premises while permitting other individuals, groups, and organizations to use its premises for various activities.

Briefs must be filed on or before December 13, 2010. [The invitation to file briefs can be viewed here.](#)

The National Labor Relations Board is an independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions.

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